

UNITED STATES DISTRICT COURT

for the

District of Nevada

United States of America

)

v.

)

JAYSON LEE JULIAN

)

Defendant

)

Case No. 2:09-cr-0356-KJD-GWF

DETENTION ORDER PENDING TRIAL

After conducting a detention hearing under the Bail Reform Act, 18 U.S.C. § 3142(f), I conclude that these facts require that the defendant be detained pending trial.

Part I—Findings of Fact

(1) The defendant is charged with an offense described in 18 U.S.C. § 3142(f)(1) and has previously been convicted of a federal offense a state or local offense that would have been a federal offense if federal jurisdiction had existed - that is

- a crime of violence as defined in 18 U.S.C. § 3156(a)(4) or an offense listed in 18 U.S.C. § 2332b(g)(5) for which the prison term is 10 years or more.
- an offense for which the maximum sentence is death or life imprisonment.
- an offense for which a maximum prison term of ten years or more is prescribed in _____

* _____

a felony committed after the defendant had been convicted of two or more prior federal offenses described in 18 U.S.C. § 3142(f)(1)(A)-(C), or comparable state or local offenses:

- any felony that is not a crime of violence but involves:
 - a minor victim
 - the possession or use of a firearm or destructive device or any other dangerous weapon
 - a failure to register under 18 U.S.C. § 2250

(2) The offense described in finding (1) was committed while the defendant was on release pending trial for a federal, state release or local offense.

(3) A period of less than five years has elapsed since the date of conviction the defendant's release from prison for the offense described in finding (1).

(4) Findings Nos. (1), (2) and (3) establish a rebuttable presumption that no condition will reasonably assure the safety of another person or the community. I further find that the defendant has not rebutted this presumption.

Alternative Findings (A)

(1) There is probable cause to believe that the defendant has committed an offense

- for which a maximum prison term of ten years or more is prescribed in _____.
- under 18 U.S.C. § 924(c).

*Insert as applicable: (a) Controlled Substances Act (21 U.S.C. § 801 *et seq.*); (b) Controlled Substances Import and Export Act (21 U.S.C. § 951 *et seq.*); or (c) Section 1 of Act of Sept. 15, 1980 (21 U.S.C. § 955a).

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(2) The defendant has not rebutted the presumption established by finding 1 that no condition will reasonably assure the defendant's appearance and the safety of the community.

Alternative Findings (B)

(1) There is a serious risk that the defendant will not appear.
 (2) There is a serious risk that the defendant will endanger the safety of another person or the community.

The defendant is ordered detained as a flight risk as that term is defined by The Bail Reform Act for the following reasons: The defendant has been convicted of a felony and is currently on supervised release. Fed R. Cr P 32.1(a)(6) applies and imposes upon the defendant the burden of establishing that he/she will not flee or pose a danger to the community. 18 USC Sec 3143(a) also applies to persons accused of violating conditions of supervised release and provides that the judicial officer shall order the person detained unless the court finds by clear and convincing evidence that he/she is neither a flight risk or a danger to the community. The defendant has not met his burden. The defendant was charged with an August 14, 2009 bank robbery charge in this district, and was placed on pretrial release under stringent conditions, which included halfway house placement and supervision. The defendant plead guilty to this charge and was awaiting sentencing on April 28, 2010. The defendant did not appear for his sentencing hearing, and he has been in absconder status for more than two months. Additionally, a new indictment has been filed charging the defendant with a second bank robbery offense.

Part II—Statement of the Reasons for Detention

The Court finds the defendant is a flight risk by the preponderance of the evidence and that there are no conditions or combination of conditions that could be fashioned that would reasonably assure the appearance of the defendant.

Part III—Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or a designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or held in custody pending appeal. The defendant must be afforded a reasonable opportunity to consult privately with defense counsel. On order of United States Court or on request of an attorney for the Government, the person in charge of the corrections facility must deliver the defendant to the United States marshal for a court appearance.

Date: 6/09/2010


 Judge's Signature

PEGGY A. LEEN, U.S. Magistrate Judge

Name and Title